IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37328 of 2007(R)

PETITIONER:

H & R JOHNSON (INDIA) LIMITED,
40/937-LAXMI-688/4, P.T.USHA ROAD,
ERNAKULAM-682 011, REPRESENTED BY
MR.M.V.UNNIKRISHNAN, AUTHORISED SIGNATORY.

BY ADV. SRI.JOSEPH JERARD SAMSOM RODRIGUES

RESPONDENT:

INTELLIGENCE INSPECTOR,
SQUAD NO.II, DEPT. OF COMMERCIAL TAXES,
MATTANCHERRY AT KARUKUTTY.

BY GOVERNMENT PLEADER SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 37328 OF 2007 R
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Dated this the 18th day of December, 2007

J U D G M E N T

Ext.P3 is a notice of detention, by which a consignment of ceramic tiles transported by the petitioner has been detained. The irregularity noticed seems to be that the petitioner has adopted a different route and that there has been delay in transporting the goods. According to the respondents, though the invoice is dated 30/11/2007, the transportation was only on 13/12/2007 and in view of the delay, attempt to evade tax has been suspected and hence the goods were detained.

2. Petitioner refers to Ext.P7 and it is stated that Equipment Interchange report discloses that the goods were taken over only on 13/12/2007. On this basis, petitioner seeks to explain the delay. It is also stated that it was on account of the heavy traffic that they adopted the route mentioned in

Ext.P3.

3. The controversy certainly calls for enquiry and adjudication in terms of the provisions of the Act. But however, the question is whether the goods should be allowed to be detained pending such enquiry and adjudication.

4. Since the petitioner is a registered dealer as can be seen from Ext.P1 certificate and also in view of the explanation that is offered, I think the goods along with the truck can be released to the petitioner subject to continuance of enquiry and adjudication.

Accordingly, I dispose of this writ petition directing that on the petitioner executing a bond without sureties, the goods will be released to the petitioner.

ANTONY DOMINIC, JUDGE.

Rp